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Date: August 30, 2004

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(Attn: Examiner David Blanchard) U.S. Patent and Trademark Office	(703) 872-9306	

From: Sandy Livnat
Phone: (202) 496-7845
Re: **U.S. Serial No.: 10/074,225 Atty. Docket No.: 38342-178463**

Number of Pages (including cover): 5

COMMENTS

RESPONSE TO RESTRICTION/ELECTION REQUIREMENT

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CERTIFICATE OF FACSIMILE TRANSMISSION

I hereby certify that this correspondence is being facsimile transmitted to the United States Patent and Trademark Office on August 30, 2004 to the telephone number: 703-872-9306 (to the attention of Examiner David Blanchard)

Shamir Livnat

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:	Art Unit: 1642
Fernando DOÑATE *et al.*	Examiner: David Blanchard
Serial. No. 10/074,225	
Filed: February 14, 2002	Atty. Docket No. 38342-178463
For: HISTIDINE PROLINE RICH GLYCOPROTEIN (HPRG) AS AN ANTIANGIOGENIC AND ANTI-TUMOR AGENT	Customer No.[1] **30827**

RESPONSE TO RESTRICTION REQUIREMENT

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

This paper responds to the Restriction/Election Requirement mailed 28 July 2004, the time for responding to which was August 28, 2004, which fell on a weekend. This response is therefore timely filed.

Due to its length, the restriction made by the Office will not be reiterated here. Applicant elects, with traverse, Group 1, which encompasses, according to the Action, claims 1, 5-6, 11-15 and 49 in part and claims 7-10, drawn to the human HPRG polypeptide of SEQ ID NO:5 and a sequence variant of SEQ ID NO:5, classified in class 530, subclass 350.

Applicants believe that it would be proper to rejoin, for initial examination, the following Group, the search of which would, in fact, not be burdensome. Applicants reasoning is provided below.

Group 2, drawn to the same claims as above, but including rabbit HPRG polypeptide (SEQ ID NO. 6), and a sequence variant of SEQ ID NO:6, classified in class 530, subclass 350.

[1] Customer number and correspondence address have changed – see accompanying Change of Address form. The Office is requested to note and enter the change of corresponding attorney address and customer number.

This sequence is highly homologous to SEQ ID NO:5, shares functional attributes, and, in fact, would fall within a reasonable definition of a "sequence variant" of SEQ ID NO:5. Hence, applicants believe it would be appropriate, and within the rules and practices of the Office, to examine claim 1, and the indicated dependent claims, for what is recited in parts (a), (b) and (c) of claim 1:

(a) the histidine-proline-rich (H/P) **domain** of human histidine-proline rich glycoprotein (HPRG) (SEQ ID NO:5)

(b) the H/P **domain** of human rabbit HPRG (SEQ ID NO:6)

(c) **a sequence variant** of SEQ ID NO:5 or SEQ ID NO:6 having substantially the same biologic activity of inhibiting angiogenesis, endothelial cell proliferation or endothelial tube formation in an *in vitro* or *in vivo* bioassay.

As indicated in the Office's Restriction Analysis, dependent claim that would be examined under Applicants' present election of request of Group 1, with rejoinder of Group 2, would include:

Claim 5(a) in part :	Polypeptide according to claim 1 (a), (b) and (c)
Claim 6 in part:	(a) and (b)
Claim 7 in part:	As it depends from claim 5(a)
Claims 7-10:	As they depend from claim 5(a)
Claim 11 in part:	Polypeptide according to claim 1 (a), (b) and (c)
Claim 12 in part:	As it depends from claim 5(a)
Claims 13-15:	As they depend from claims 11 and 12

Applicants understand that the following claims directed to embodiments other than polypeptides *per se* would be properly rejoined to the above claims upon identification of patentable subject matter:

Claims 23 and 24	Method of use of the polypeptides of the elected claims
Claims 33- 36	Nucleic acids/expression vectors encoding the polypeptides of the elected invention
Claims 41, 42, 45, 47, 48	Method of using the nucleic acids/expression vectors encoding the polypeptides of the elected invention

Rejoinder of claims to nucleic acids and method of their use would be proper because the angiogenesis inhibiting effects resulting from contacting or administration of the nucleic acid/expression vector are mediated by the expressed, encoded polypeptides, not by the administered nucleic acid itself.. The nucleic acids are, in effect, a form of "packaging" for the polypeptides in a

form that will ultimately result in the availability of the polypeptides; this may be considered functionally equivalent to a protective coating or packaging of the active ingredient. All these claims thus define a unified invention that underlies the polypeptides and nucleic acids and methods of their use.

CONCLUSIONS

Applicants have responded fully to the Restriction Requirement, have requested rejoinder of one group of claims to the elected group, and discussed subsequent rejoinder of claims under *In re Ochiai* and for other considerations. It is believed that the case is now in condition for examination and allowance.

If these papers are not considered timely filed by the Patent and Trademark Office, then a petition is hereby made under 37 C.F.R. § 1.136, and any additional fees required under 37 C.F.R. § 1.136 for any necessary extension of time, or any other fees required to complete the filing of this response, may be charged to Deposit Account No. 50-0911. Please credit any overpayment to deposit Account No. 50-0911.

Respectfully submitted,

Dated: August 30, 2004

By _____
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[2] **Examiner is respectfully requested to note change in correspondence address**